

## IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

LONNIE LEWIS,

Plaintiff,

v.

FREIGHTLINER OF HOUSTON,  
INC.,

Defendant.

(2:05cv690-B)

Case No. CV-\_\_\_\_\_

JURY TRIAL DEMANDEDCOMPLAINT

COMES NOW the Plaintiff, Lonnie Lewis, by and through the undersigned counsel, and hereby complains of the Defendant as follows:

1. Plaintiff Lonnie Lewis is an adult resident citizen of Montgomery County, Alabama.
2. Defendant Freightliner of Houston is a corporation with offices in Montgomery County, Alabama, and which conducts business via agent in Montgomery County, Alabama.
3. Plaintiff is self-employed as a semi-tractor trailer driver.
4. On or about February 13, 2005, the Plaintiff took his 1997 Freightliner truck to the Defendant for repairs.
5. Defendant determined that the Plaintiff's truck required an overhaul which was performed by the Defendant.
6. On or about February 21, 2005, the Plaintiff's truck suffered a total mechanical breakdown, and his vehicle was towed to the Freightliner dealership in Montgomery, Alabama.

FILED  
CIRCUIT COURT OF  
MONTGOMERY COUNTY  
2005 JUN 17 PM 1:48

**EXHIBIT "1"**

7. While at the Freightliner dealership in Montgomery, it was determined that the mechanical breakdown was due to negligent repairs performed by Freightliner in Houston.
8. After approximately two weeks of down time, the Defendant finally accepted responsibility for the repairs to the Plaintiff's truck and agreed to have these repairs performed at the Defendant's expense.
9. However, after the Defendant was informed of the amount of repairs that would be necessary, the Defendant changed course and refused to accept any liability for the Plaintiff's truck repairs.

**COUNT I**  
**NEGLIGENCE**

10. Plaintiff incorporates by reference all previous allegations listed above.
11. In making repairs to the Plaintiff's vehicle, the agents of the Defendant were negligent and/or failed to perform these repairs in a workmanlike manner.
12. As a result of the Defendant's negligence, Plaintiff has suffered lost wages, additional repair expenses, and other out-of-pocket expenses that were caused by the mechanical failure of his vehicle.

**COUNT II**  
**BREACH OF CONTRACT**

13. Plaintiff incorporates by reference all prior allegations listed above.
14. Plaintiff contracted with Defendant to make the necessary repairs to his vehicle.

15. As consideration for making these repairs, Plaintiff paid to the Defendant approximately \$1,521 for the repairs to his vehicle.
16. Defendant breached its contract with the Plaintiff by failing to make the necessary repairs in accordance with its agreement with the Plaintiff.
17. As a result of the Defendant's breach of contract, the Plaintiff has suffered lost wages, additional repair expenses, and other out-of-pocket expenses that were caused by the mechanical failure of his vehicle.

**COUNT III**  
**BREACH OF WARRANTY**

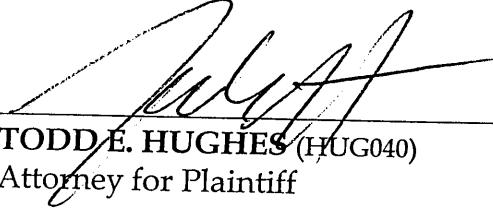
18. Plaintiff incorporates by reference all prior allegations listed above.
19. In making the repairs to the Plaintiff's vehicle, Defendant provided the Plaintiff with a warranty, either express or implied, of the work performed on his vehicle.
20. Defendant breached this warranty when it failed to repair the Plaintiff's vehicle after it suffered a total mechanical breakdown only days after being repaired by the Defendant.
21. As a result of Defendant's breach of warranty, Plaintiff suffered lost wages, additional repair expenses, and other out-of-pocket expenses that were caused by the mechanical failure of his vehicle.

**COUNT IV**  
**FRAUD/MISREPRESENTATION**

22. Plaintiff incorporates by reference all prior allegations listed above.

23. After being informed of the mechanical problem with the Plaintiff's vehicle, Defendant represented to the Plaintiff that they would be responsible for the repairs to the Plaintiff's vehicle.
24. Plaintiff relied on the Defendant's representations that they would complete the repairs to the Plaintiff's vehicle at the Defendant's expense.
25. When the Defendant later rescinded their offer to repair the Plaintiff's vehicle, the Plaintiff was then forced to make his own repairs to the vehicle after experiencing additional down time and lost income.
26. As a result of the Defendant's misrepresentation and the Plaintiff's reliance thereon, the Plaintiff suffered lost wages, additional repair expenses, and other out-of-pocket expenses that were caused by the misrepresentation of the Defendant.

**WHEREFORE**, based upon the foregoing allegations, Plaintiff demands of the Defendant compensatory and punitive damages in excess of the minimum jurisdiction of this Court to be determined by the jury.

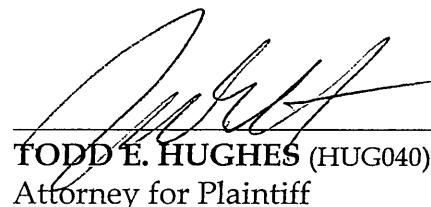


TODD E. HUGHES (HUG040)  
Attorney for Plaintiff

**OF COUNSEL:**

VERCELLI & ASSOCIATES, P.C.  
1019 S. Perry Street  
Montgomery, AL 36104-5049  
TEL: 334-834-8805  
FAX: 334-834-8807

**PLAINTIFF DEMANDS TRIAL BY STRUCK JURY ON ALL ISSUES**



TODD E. HUGHES (HUG040)  
Attorney for Plaintiff

**PLEASE SERVE DEFENDANT FREIGHTLINER OF HOUSTON  
BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AT:**

**9550 N. Loop East  
Houston, TX 77029**

# VERCELLI & ASSOCIATES, P.C.

*Attorneys & Counselors at Law*

(334) 834-8805

Fax (334) 834-8807

CHARLES E. VERCHELLI, JR.  
TODD E. HUGHES  
RAY VAUGHAN, *OF COUNSEL*

1019 S. Perry Street  
Montgomery, Alabama 36104-5049  
thughes@vercelli-law.com

June 16, 2005

CO-05-1520

Clerk of Court  
Montgomery County  
P. O. Box 1667  
Montgomery, AL 36102

RE: *Lonnie Lewis v. Freightliner of Houston*

Dear Madam or Sir:

Enclosed please find the following:

1. Original and two copies of a Summons and Complaint in the above-styled case, along with a Cover Sheet;
2. A check in the amount of \$301 payable to the Clerk of Court representing the filing fee of \$201 plus a jury demand fee of \$100;
3. An envelope properly addressed to Freightliner of Houston with certified mail postage prepaid; and
4. A self-addressed, postage prepaid envelope to Vercelli & Associates, P.C.

Please file the original Summons and Complaint and return a "file-stamped" copy to us in the envelope provided. Please then serve the other copy of the Summons and Complaint on Freightliner of Houston in the envelope provided.

Thank you for your assistance in this matter. If you should have any questions or need any other information or documentation, please call.

Sincerely,

  
Mary Ellen Anile  
Secretary to Todd E. Hughes

/ma  
Enclosures

State of Alabama  
Unified Judicial System  
  
Form AR Civ P-93 Rev. 5/99

**COVER SHEET  
CIRCUIT COURT - CIVIL CASE**  
(Not For Domestic Relations Cases)

Case Number CV 05-1520  
Date of Filing: \_\_\_\_\_  
Judge Code: □□□□□  
Month Day Year

**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

**LONNIE LEWIS,**

**FREIGHTLINER OF HOUSTON,**

v.

**Plaintiff**

**Defendant**

First Plaintiff  Business  Individual  
 Government  Other

First Defendant

Business  Individual  
 Government  Other

**NATURE OF SUIT:** Select primary cause of action, by checking box (*check only one*) that best characterizes your action:

**TORTS: PERSONAL INJURY**

- |  |   |                                   |
|--|---|-----------------------------------|
| <input type="checkbox"/> WDEA            | - | Wrongful Death                    |
| <input checked="" type="checkbox"/> TONG | - | Negligence: General               |
| <input type="checkbox"/> TOMV            | - | Negligence: Motor Vehicle         |
| <input type="checkbox"/> TOWA            | - | Wantonness                        |
| <input type="checkbox"/> TOPL            | - | Product Liability/AEMLD           |
| <input type="checkbox"/> TOMM            | - | Malpractice-Medical               |
| <input type="checkbox"/> TOLM            | - | Malpractice-Legal                 |
| <input type="checkbox"/> TOOM            | - | Malpractice-Other                 |
| <input type="checkbox"/> TBFM            | - | Fraud/Bad Faith/Misrepresentation |
| <input type="checkbox"/> TOXX            | - | Other: _____                      |

**TORTS: PROPERTY INJURY**

- |                               |   |                   |
|-------------------------------|---|-------------------|
| <input type="checkbox"/> TOPE | - | Personal Property |
| <input type="checkbox"/> TORE | - | Real Property     |

**OTHER CIVIL FILINGS**

- |                               |   |                                       |
|-------------------------------|---|---------------------------------------|
| <input type="checkbox"/> ABAN | - | Abandoned Automobile                  |
| <input type="checkbox"/> ACCT | - | Account & Nonmortgage                 |
| <input type="checkbox"/> APAA | - | Administrative Agency Appeal          |
| <input type="checkbox"/> ADPA | - | Administrative Procedure Act          |
| <input type="checkbox"/> ANPS | - | Adults in Need of Protective Services |

**OTHER CIVIL FILINGS (cont'd)**

- |                               |   |   |
|-------------------------------|---|---|
| <input type="checkbox"/> MSXX | - | Birth/Death Certificate Modification/Bond Forfeiture Appeal/Enforcement of Agency Subpoena/Petition to Preserve |
| <input type="checkbox"/> CVRT | - | Civil Rights  |
| <input type="checkbox"/> COND | - | Condemnation/Eminent Domain/Right-of-Way  |
| <input type="checkbox"/> CTMP | - | Contempt of Court   |
| <input type="checkbox"/> CONT | - | Contract/Ejectment/Writ of Seizure  |
| <input type="checkbox"/> TOCN | - | Conversion  |
| <input type="checkbox"/> EQND | - | Equity Non-Damages Actions/Declaratory Judgment/Injunction Election Contest/Quiet Title/Sale for Division       |
| <input type="checkbox"/> CVUD | - | Eviction Appeal/Unlawful Detainer   |
| <input type="checkbox"/> FORJ | - | Foreign Judgment  |
| <input type="checkbox"/> FORF | - | Fruits of Crime Forfeiture  |
| <input type="checkbox"/> MSHC | - | Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition   |
| <input type="checkbox"/> PFAB | - | Protection From Abuse   |
| <input type="checkbox"/> FELA | - | Railroad/Seaman (FELA)  |
| <input type="checkbox"/> RPRO | - | Real Property   |
| <input type="checkbox"/> WTEG | - | Will/Trust/Estate/Guardianship/Conservatorship  |
| <input type="checkbox"/> COMP | - | Workers' Compensation   |
| <input type="checkbox"/> CVXX | - | Miscellaneous Circuit Civil Case  |

**ORIGIN (check one):**

INITIAL FILING

A  APPEAL FROM  
DISTRICT COURT

O  OTHER: \_\_\_\_\_

R  REMANDED

T  TRANSFERRED FROM  
OTHER CIRCUIT COURT

**HAS JURY TRIAL BEEN DEMANDED?**

YES  NO

Note: Checking "Yes" does not constitute a demand for a jury trial.  
(See Rules 38 and 39, Ala.R.Civ.P. for procedure)

**RELIEF REQUESTED:**

MONETARY AWARD REQUESTED

NO MONETARY AWARD REQUESTED

**ATTORNEY CODE:**  
HUG040

Date

6/16/05

Signature of Attorney/Party filing this form: Todd E. Hughes

**MEDIATION REQUESTED:**

YES  NO  UNDECIDED

State of Alabama  
Unified Judicial System

CV 05-1520

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

Plaintiff **LONNIE LEWIS**

v.

Defendant **FREIGHTLINER OF HOUSTON**

**S U M M O N S**

NOTICE TO: **FREIGHTLINER OF HOUSTON**  
**9550 N. Loop East**  
**Houston, TX 77029**

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CIRCUIT COURT OF  
MONTGOMERY COUNTY  
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THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF OR PLAINTIFF'S ATTORNEY **Charles E. Vercelli, Jr., Todd E. Hughes, of Vercelli & Associates, P.C.**, WHOSE ADDRESS IS **1019 S. Perry Street, Montgomery, Alabama 36104-5049**.

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSON AUTHORIZED by the Alabama Rules of Civil Procedure:

- You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant.
- Service by certified mail of this summons is initiated upon the written request of Plaintiff pursuant to the Alabama Rules of Civil Procedure.

Date 6-24-05

*(Signature)*

By: Clerk/Register

- Certified Mail is hereby requested.

Plaintiff's Attorney's Signature Todd E. Hughes (HUG040)

**RETURN ON SERVICE:**

- Return receipt of certified mail received in this office of \_\_\_\_\_ (Date) \_\_\_\_\_.
- I certify that I personally delivered a copy of the Summons and Complaint to \_\_\_\_\_ in \_\_\_\_\_ County, Alabama on \_\_\_\_\_.